

MONTANA LEGISLATIVE HISTORY

Chapter 1070 1991

Bill HB 790 S _____

Original bill & history ✓ c

H. Committee on taxation

Hearing Date(s) 3/07 _____ c

3/23 _____ c

_____ c

_____ c

Date Out _____ c

S. Committee on TAXATION

Hearing Date(s) 4/11 _____ c

~~3/22~~ _____ c

_____ c

_____ c

Did this bill originate in an interim committee? _____ Yes _____ No

Committee _____

Report _____

	TRANSMITTED TO SENATE		
2/26	FIRST READING		
2/26	REFERRED TO PUBLIC HEALTH, WELFARE & SAFETY		
3/25	HEARING		
4/01	TABLED IN COMMITTEE		
4/03	MOTION FAILED TO TAKE FROM COMMITTEE	20	30

HB 789 INTRODUCED BY MEASURE, ET AL.
REVISE PROCESS SERVICE AND LEVYING

2/12	INTRODUCED		
2/12	REFERRED TO JUDICIARY		
2/13	FIRST READING		
2/19	HEARING		
2/21	TABLED IN COMMITTEE		

HB 790 INTRODUCED BY MESSMORE, ET AL.
REVISE MONTANA INDIVIDUAL INCOME CREDIT
FOR ELDERLY FAMILY MEMBERS

2/12	INTRODUCED		
2/12	REFERRED TO TAXATION		
2/13	FIRST READING		
2/13	FISCAL NOTE REQUESTED		
2/19	FISCAL NOTE RECEIVED		
2/20	FISCAL NOTE PRINTED		
3/07	HEARING		
3/23	COMMITTEE REPORT—BILL PASSED AS AMENDED		
4/03	2ND READING PASSED	100	0
4/03	ON MOTION RULES SUSPENDED TO ALLOW 3RD READING THIS DAY		
4/03	3RD READING PASSED	100	0
	TRANSMITTED TO SENATE		
4/04	FIRST READING		
4/04	REFERRED TO TAXATION		
4/10	REVISED FISCAL NOTE REQUESTED		
4/11	HEARING		
4/12	COMMITTEE REPORT—BILL CONCURRED AS AMENDED		
4/13	REVISED FISCAL NOTE RECEIVED		
4/15	REVISED FISCAL NOTE PRINTED		
4/15	2ND READING CONCURRED	48	0
4/16	3RD READING CONCURRED	49	0
	RETURNED TO HOUSE WITH AMENDMENTS		
4/18	2ND READING AMENDMENTS CONCURRED	98	0
4/19	3RD READING AMENDMENTS CONCURRED	95	1
4/23	SIGNED BY SPEAKER		
4/23	SIGNED BY PRESIDENT		
4/23	TRANSMITTED TO GOVERNOR		
4/26	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 670		
		EFFECTIVE DATE: 4/26/91	

HB 791 INTRODUCED BY BENEDICT
REVISE SUPERVISION OF SEARCH AND
RESCUE PERSONNEL BY COUNTY SHERIFF

2/12	INTRODUCED		
2/12	REFERRED TO LOCAL GOVERNMENT		
2/13	FIRST READING		
2/21	HEARING		
2/22	COMMITTEE REPORT—BILL PASSED		
2/22	PLACED ON CONSENT CALENDAR		
2/26	3RD READING PASSED	98	0
	TRANSMITTED TO SENATE		
2/26	FIRST READING		

HOUSE BILL NO. 790

INTRODUCED BY MESSMORE, S. RICE, THOMAS, THAYER,
FRANKLIN, J. RICE, T. NELSON, GILBERT,
FELAND, MERCER, LEE, PETERSON, FOSTER,
KASTEN, TUNBY, STICKNEY, FAGG, COBB

BY REQUEST OF THE GOVERNOR

IN THE HOUSE

FEBRUARY 12, 1991	INTRODUCED AND REFERRED TO COMMITTEE ON TAXATION.
FEBRUARY 13, 1991	FIRST READING.
MARCH 23, 1991	COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED.
MARCH 25, 1991	PRINTING REPORT.
APRIL 3, 1991	SECOND READING, DO PASS. ON MOTION, RULES SUSPENDED. BILL PLACED ON THIRD READING THIS DAY. THIRD READING, PASSED. AYES, 100; NOES, 0.
APRIL 4, 1991	ENGROSSING REPORT. TRANSMITTED TO SENATE.

IN THE SENATE

APRIL 4, 1991	INTRODUCED AND REFERRED TO COMMITTEE ON TAXATION. FIRST READING.
APRIL 12, 1991	COMMITTEE RECOMMEND BILL BE CONCURRED IN AS AMENDED. REPORT ADOPTED.
APRIL 15, 1991	SECOND READING, CONCURRED IN.
APRIL 16, 1991	THIRD READING, CONCURRED IN. AYES, 49; NOES, 0. RETURNED TO HOUSE WITH AMENDMENTS.

IN THE HOUSE

APRIL 18, 1991

RECEIVED FROM SENATE.

SECOND READING, AMENDMENTS
CONCURRED IN.

APRIL 19, 1991

THIRD READING, AMENDMENTS
CONCURRED IN.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 *HOUSE* BILL NO. *790*
 2 INTRODUCED BY *Messrs. Steve Thomas, Franklyn*
 3 *Dr. Nelson, Gilbert* BY REQUEST OF THE GOVERNOR *John Foss* *Colb*
 4 *Merger*
 5 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE MONTANA

6 INDIVIDUAL INCOME TAX CREDIT FOR ELDERLY FAMILY MEMBERS;
 7 LOWERING THE QUALIFYING AGE LIMIT TO 65 YEARS; DELETING THE
 8 PHYSICAL REQUIREMENT FOR AFFLICTION WITH ALZHEIMER'S DISEASE
 9 AND SUBSTITUTING THAT THE INDIVIDUAL MUST BE DETERMINED
 10 DISABLED FOR SOCIAL SECURITY PURPOSES; ESTABLISHING A HIGHER
 11 INCOME QUALIFICATION FOR A MARRIED INDIVIDUAL; PROVIDING
 12 THAT PAYMENTS FOR CARE IN A LICENSED LONG-TERM HEALTH CARE
 13 FACILITY ARE A QUALIFYING EXPENSE; ALLOWING PREMIUMS PAID
 14 FOR LONG-TERM HEALTH CARE INSURANCE AS A QUALIFYING EXPENSE;
 15 AMENDING SECTION 15-30-128, MCA; AND PROVIDING AN IMMEDIATE
 16 EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE."

17
 18 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

19 **Section 1.** Section 15-30-128, MCA, is amended to read:

20 "15-30-128. Credit for expense of caring for certain
 21 elderly family members. (1) There is a credit against the
 22 tax imposed by this chapter for qualified elderly care
 23 expenses paid by an individual for the care of a qualifying
 24 family member during the taxable year.

25 (2) A qualifying family member is an individual who:

- 1 (a) is related to the taxpayer by blood or marriage;
 2 (b) (i) is at least 70 65 years of age; or
 3 (ii) ~~is--diagnosed--by--a--physician--as--having--senile~~
 4 ~~dementia-of-the-Alzheimer-type~~ has been determined to be
 5 disabled by the social security administration; and
 6 (c) has a family income of \$15,000 or less for an
 7 unmarried individual and \$30,000 or less for a married
 8 individual for the taxable year.
 9 (3) For purposes of this section, "family income"
 10 means, in the case of an individual who is not married, the
 11 adjusted gross income of the individual or, in the case of a
 12 married individual, the adjusted gross income of the
 13 individual and the individual's spouse.
 14 (4) Qualified elderly care expenses include:
 15 (a) payments by the taxpayer for home-health-agency
 16 ~~services--provided--by--an--organization--certified--by--the~~
 17 ~~federal-health-care-financing-administration~~ personal care
 18 attendant services and care in a long-term health care
 19 facility, as defined in 50-5-101, that is licensed by the
 20 department of health and environmental sciences, homemaker
 21 services, adult day care, respite care, or health-care
 22 equipment and supplies:
 23 (i) provided to the qualifying family member;
 24 (ii) provided by an organization or individual not
 25 related to the taxpayer or the qualifying family member; and

(iii) not compensated for by insurance or otherwise;

(b) ~~subject--to--the--limitations-in-subsection-(4)(a),~~
~~payments-by--the--taxpayer--for--nursing--home--care--of--an~~
~~individual--who-is-diagnosed-by-a-physician-as-having-senile~~
~~dementia-of-the-Alzheimer-type~~ premiums paid for long-term
care insurance coverage for a qualifying family member.

(5) The percentage amount of credit allowable under this section is:

(a) for a taxpayer whose adjusted gross income does not exceed \$25,000, 30% of qualified elderly care expenses; or

(b) for a taxpayer whose adjusted gross income exceeds \$25,000, the greater of:

(i) 20% of qualified elderly care expenses; or

(ii) 30% of qualified elderly care expenses, less 1% for each \$2,000 or fraction thereof by which the adjusted gross income of the taxpayer for the taxable year exceeds \$25,000.

(6) The dollar amount of credit allowable under this section is:

(a) reduced by \$1 for each dollar of the adjusted gross income over \$50,000 for a taxpayer whose adjusted gross income exceeds \$50,000;

(b) limited to \$5,000 per qualifying family member in a taxable year and to \$10,000 total for two or more family members in a taxable year;

(c) prorated among multiple taxpayers who each

contribute to qualified elderly care expenses of the same qualified family member in a taxable year in the same proportion that their contributions bear to the total qualified elderly care expenses paid by those taxpayers for that qualified family member.

(7) A deduction or credit is not allowed under any other provision of this chapter with respect to any amount for which a credit is allowed under this section. The credit allowed under this section may not be claimed as a carryback or carryforward and may not be refunded if the taxpayer has no tax liability.

(8) In the case of a married individual filing a separate return, the percentage amount of credit under subsection (5) and the dollar amount of credit under subsection (6) are limited to one-half of the figures indicated in those subsections."

NEW SECTION. **Section 2.** Effective date -- retroactive applicability. [This act] is effective on passage and approval and applies retroactively, within the meaning of 1-2-109, to taxable years beginning after December 31, 1990.

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB0790, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An act revising the Montana individual income tax credit for elderly family members; lowering the qualifying age limit to 65 years; deleting the physical requirement for affliction with alzheimers disease and substituting that the individual must be determined disabled for social security purposes; establishing a higher income qualification for a married individual; providing that payments for care in a licensed long-term care health care facility are a qualifying expense; allowing premiums paid for long-term health care insurance as a qualifying expense; and providing an immediate effective date and a retroactive applicability date.

ASSUMPTIONS:

1. There are 63,000 individuals in Montana between the age of 55 and 64; 62,000 individuals between the age of 65-74; 34,000 between the age of 75-84; and 11,000 who are 85 years or older (U.S. Census estimate, 1989).
2. There are 2.0% of all individuals between the ages of 65-74 residing in long-term care facilities, 7.0% of individuals between the ages of 75-84, and 22% of all individuals 85 years or older (What Legislators Need to Know About Long-Term Care Insurance, National Conference of State Legislatures, 1987).
3. Nationwide, approximately 52.2% of all persons 65 years and older have an income of less than \$15,000 (U.S. Census estimate, 1987).
4. The average private cost of long-term care in Montana is \$62 per day (SRS).
5. Medicaid currently pays for 62% of all long-term care expenditures in Montana (SRS).
6. There are 11,080 individuals in Montana who are under 65 years of age and are considered disabled by the Social Security Administration (State Statistics, U.S. Social Security Administration, 1990).
7. There are 6,800 licensed long-term care beds in Montana with a daily occupancy rate of at least 92% (SRS).
8. There are 7,000 individuals regularly receiving personal home health care in Montana (HES).
9. The average private cost for personal care in Montana is \$6 per hour (SRS).
10. The average number of hours of personal care required are 1,080 per year (SRS).
11. The average value of medical supplies and equipment required by individuals receiving home health care is \$2,600 per year (SRS).
12. Approximately 1% of the individuals between the age of 55 and 79 purchase long-term care insurance policies (HIAA, 1990).
13. The annual cost of long-term care insurance policies are \$363 for 50-55 age groups; \$535 for the 55-64 age group; \$1,413 for the 65-74 age group; and \$2,480 for the 75-79 age group.

Continued on next page.


ROD SUNDSTED, BUDGET DIRECTOR
Office of Budget and Program Planning

2-18-91
DATE


CHARLOTTE K. (CHAR) MESSMORE, PRIMARY SPONSOR

DATE

Fiscal Note for HB0790, as introduced

HB 790

ASSUMPTIONS (cont'd):

14. Personal income tax receipts are \$311,176,000 and \$327,201,000 in FY92 and FY93 respectively (OBPP).
15. Per current law, 100% of personal income tax receipts are deposited in the general fund.
16. Based on experience with the current credit, it is estimated that only 2% of all taxpayers potentially eligible for the credit will claim the credit in the first two years of implementation.

FISCAL IMPACT:

Expenditures:

There is no additional department administrative expenditure required to expand the credit under the proposed legislation.

	FY '92			FY '93		
	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>
<u>Revenues:</u>						
Individual Income Tax (01)	311,176,000	311,118,000	(58,000)	327,201,000	327,143,000	(58,000)
Impact to General Fund			(58,000)			(58,000)

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB0790, third reading.

DESCRIPTION OF PROPOSED LEGISLATION:

An act revising the Montana individual income tax credit for elderly family members; lowering the qualifying age limit to 65 years; deleting the physical requirement for affliction with alzheimers's disease and substituting that the individual must be determined disabled for social security purposes; establishing a higher income qualification for a married individual; providing that payments for care in a licensed long-term care health care facility are a qualifying expense; allowing premiums paid for long-term health care insurance as a qualifying expense; and providing an immediate effective date and a retroactive applicability date.

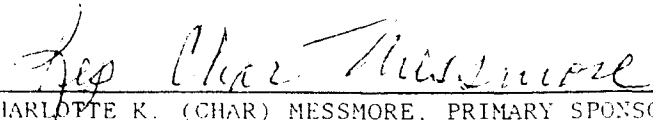
ASSUMPTIONS:

1. There are 63,000 individuals in Montana between the age of 55 and 64; 62,000 individuals between the age of 65-74; 34,000 between the age of 75-84 and 11,000 who are 85 years or older (U.S. Census estimate, 1989).
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4. The average private cost of long-term care in Montana is \$62 per day (SRS).
5. Medicaid currently pays for 62% of all long-term care expenditures in Montana (SRS).
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7. There are 6,800 licensed long-term care beds in Montana with a daily occupancy rate of at least 92% (SRS).
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12. Approximately 1% of the individuals between the age of 55 and 79 purchase long-term care insurance policies (HIAA, 1990).
13. The annual cost of long-term care insurance policies are \$363 for 50-55 age groups; \$535 for the 55-64 age group; \$1,413 for the 65-74 age group; and \$2,480 for the 75-79 age group.

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ROD SUNDSTED, BUDGET DIRECTOR
Office of Budget and Program Planning

4-13-91
DATE


CHARLOTTE K. (CHAR) MESSMORE, PRIMARY SPONSOR
DATE

Fiscal Note for HB0790, third reading

HB 790-42

ASSUMPTIONS (cont'd):

14. Personal income tax receipts are \$311,176,000 and \$327,201,000 in FY92 and FY93 respectively (OBPP).
15. Per current law, 100% of personal income tax receipts are deposited in the general fund.
16. Based on experience with the current credit, it is estimated that only 2% of all taxpayers potentially eligible for the credit will claim the credit in the first two years of implementation.

FISCAL IMPACT:

Expenditures:

There is no additional department administrative expenditure required to expand the credit under the proposed legislation.

Revenues:

	FY '92			FY '93		
	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>
Individual Income Tax (01)	311,176,000	311,117,000	(59,000)	327,201,000	327,142,000	(59,000)
Impact to General Fund (decrease)			(59,000)			(59,000)

HOUSE BILL NO. 790

INTRODUCED BY MESSMORE, S. RICE, THOMAS, THAYER,

FRANKLIN, J. RICE, T. NELSON, GILBERT,

FELAND, MERCER, LEE, PETERSON, FOSTER,

KASTEN, TUNBY, STICKNEY, FAGG, COBB

BY REQUEST OF THE GOVERNOR

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE MONTANA
INDIVIDUAL INCOME TAX CREDIT FOR ELDERLY FAMILY MEMBERS;
LOWERING THE QUALIFYING AGE LIMIT TO 65 YEARS; DELETING THE
PHYSICAL REQUIREMENT FOR AFFLICTION WITH ALZHEIMER'S DISEASE
AND SUBSTITUTING THAT THE INDIVIDUAL MUST BE DETERMINED
DISABLED FOR SOCIAL SECURITY PURPOSES; ESTABLISHING A HIGHER
INCOME QUALIFICATION FOR A MARRIED INDIVIDUAL; PROVIDING
THAT PAYMENTS FOR CARE IN A LICENSED LONG-TERM HEALTH CARE
FACILITY ARE A QUALIFYING EXPENSE; ALLOWING PREMIUMS PAID
FOR LONG-TERM HEALTH CARE INSURANCE AS A QUALIFYING EXPENSE;
CLARIFYING THAT A CHARITABLE INSTITUTION HAS AN INSURABLE
INTEREST IN CERTAIN INDIVIDUALS; AMENDING SECTION SECTIONS
15-30-121, 15-30-128, AND 33-15-201, MCA; AND PROVIDING AN
IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY
DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 15-30-128, MCA, is amended to read:

"15-30-128. Credit for expense of caring for certain
elderly family members. (1) There is a credit against the
tax imposed by this chapter for qualified elderly care
expenses paid by an individual for the care of a qualifying
family member during the taxable year.

(2) A qualifying family member is an individual who:

(a) is related to the taxpayer by blood or marriage;

(b) (i) is at least 70 65 years of age; or

(ii) ~~is--diagnosed--by--a--physician--as--having--senile~~
~~dementia--of--the--Alzheimer--type~~ has been determined to be
disabled by the social security administration; and

(c) has a family income of \$15,000 or less for an
unmarried individual and \$30,000 or less for a married
individual for the taxable year.

(3) For purposes of this section, "family income"
means, in the case of an individual who is not married, the
adjusted gross income, INCLUDING ALL NONTAXABLE INCOME, of
the individual or, in the case of a married individual, the
adjusted gross income, INCLUDING ALL NONTAXABLE INCOME, of
the individual and the individual's spouse.

(4) Qualified elderly care expenses include:

(a) payments by the taxpayer for ~~home--health--agency~~
~~services--provided--by--an--organization--certified--by--the~~
~~federal--health--care--financing--administration~~ HOME HEALTH
AGENCY SERVICES, personal care attendant services and care

1 in a long-term health care facility, as defined in 50-5-101,
 2 that is licensed by the department of health and
 3 environmental sciences, homemaker services, adult day care,
 4 respite care, or health-care equipment and supplies:

5 (i) provided to the qualifying family member;

6 (ii) provided by an organization or individual not
 7 related to the taxpayer or the qualifying family member; and

8 (iii) not compensated for by insurance or otherwise;

9 (b) ~~subject--to--the--limitations-in-subsection-(4)(a);~~
 10 ~~payments-by--the--taxpayer--for--nursing--home--care--of--an~~
 11 ~~individual--who-is-diagnosed-by-a-physician-as-having-senile~~
 12 ~~dementia-of-the-Alzheimer-type premiums paid for long-term~~
 13 care insurance coverage for a qualifying family member.

14 (5) The percentage amount of credit allowable under
 15 this section is:

16 (a) for a taxpayer whose adjusted gross income does not
 17 exceed \$25,000, 30% of qualified elderly care expenses; or

18 (b) for a taxpayer whose adjusted gross income exceeds
 19 \$25,000, the greater of:

20 (i) 20% of qualified elderly care expenses; or

21 (ii) 30% of qualified elderly care expenses, less 1% for
 22 each \$2,000 or fraction thereof by which the adjusted gross
 23 income of the taxpayer for the taxable year exceeds \$25,000.

24 (6) The dollar amount of credit allowable under this
 25 section is:

1 (a) reduced by \$1 for each dollar of the adjusted gross
 2 income over \$50,000 for a taxpayer whose adjusted gross
 3 income exceeds \$50,000;

4 (b) limited to \$5,000 per qualifying family member in a
 5 taxable year and to \$10,000 total for two or more family
 6 members in a taxable year;

7 (c) prorated among multiple taxpayers who each
 8 contribute to qualified elderly care expenses of the same
 9 qualified family member in a taxable year in the same
 10 proportion that their contributions bear to the total
 11 qualified elderly care expenses paid by those taxpayers for
 12 that qualified family member.

13 (7) A deduction or credit is not allowed under any
 14 other provision of this chapter with respect to any amount
 15 for which a credit is allowed under this section. The credit
 16 allowed under this section may not be claimed as a carryback
 17 or carryforward and may not be refunded if the taxpayer has
 18 no tax liability.

19 (8) In the case of a married individual filing a
 20 separate return, the percentage amount of credit under
 21 subsection (5) and the dollar amount of credit under
 22 subsection (6) are limited to one-half of the figures
 23 indicated in those subsections."

24 **SECTION 2. SECTION 15-30-121, MCA, IS AMENDED TO READ:**

25 "15-30-121. Deductions allowed in computing net income.

1 In computing net income, there are allowed as deductions:

2 (1) the items referred to in sections 161, including
3 the contributions referred to in 33-15-201(5)(b), and 211 of
4 the Internal Revenue Code of 1954, or as sections 161 and
5 211 shall be labeled or amended, subject to the following
6 exceptions which are not deductible:

7 (a) items provided for in 15-30-123;

8 (b) state income tax paid;

9 (2) federal income tax paid within the taxable year;

10 (3) expenses of household and dependent care services
11 as outlined in subsections (3)(a) through (3)(c) and subject
12 to the limitations and rules as set out in subsections
13 (3)(d) through (3)(f) as follows:

14 (a) expenses for household and dependent care services
15 necessary for gainful employment incurred for:

16 (i) a dependent under 15 years of age for whom an
17 exemption can be claimed;

18 (ii) a dependent as allowable under 15-30-112(5), except
19 that the limitations for age and gross income do not apply,
20 who is unable to care for himself because of physical or
21 mental illness; and

22 (iii) a spouse who is unable to care for himself because
23 of physical or mental illness;

24 (b) employment-related expenses incurred for the
25 following services, but only if such expenses are incurred

1 to enable the taxpayer to be gainfully employed:

2 (i) household services which are attributable to the
3 care of the qualifying individual; and

4 (ii) care of an individual who qualifies under
5 subsection (3)(a);

6 (c) expenses incurred in maintaining a household if
7 over half of the cost of maintaining the household is
8 furnished by an individual or, if the individual is married
9 during the applicable period, is furnished by the individual
10 and his spouse;

11 (d) the amounts deductible in subsection (3)(a) through
12 (3)(c) are subject to the following limitations:

13 (i) a deduction is allowed under subsection (3)(a) for
14 employment-related expenses incurred during the year only to
15 the extent such expenses do not exceed \$4,800;

16 (ii) expenses for services in the household are
17 deductible under subsection (3)(a) for employment-related
18 expenses only if they are incurred for services in the
19 taxpayer's household, except that employment-related
20 expenses incurred for services outside the taxpayer's
21 household are deductible, but only if incurred for the care
22 of a qualifying individual described in subsection (3)(a)(i)
23 and only to the extent such expenses incurred during the
24 year do not exceed:

25 (A) \$2,400 in the case of one qualifying individual;

1 (B) \$3,600 in the case of two qualifying individuals;
 2 and
 3 (C) \$4,800 in the case of three or more qualifying
 4 individuals;
 5 (e) if the combined adjusted gross income of the
 6 taxpayers exceeds \$18,000 for the taxable year during which
 7 the expenses are incurred, the amount of the
 8 employment-related expenses incurred must be reduced by
 9 one-half of the excess of the combined adjusted gross income
 10 over \$18,000;
 11 (f) for purposes of this subsection (3):
 12 (i) married couples shall file a joint return or file
 13 separately on the same form;
 14 (ii) if the taxpayer is married during any period of the
 15 taxable year, employment-related expenses incurred are
 16 deductible only if:
 17 (A) both spouses are gainfully employed, in which case
 18 the expenses are deductible only to the extent that they are
 19 a direct result of the employment; or
 20 (B) the spouse is a qualifying individual described in
 21 subsection (3)(a)(iii);
 22 (iii) an individual legally separated from his spouse
 23 under a decree of divorce or of separate maintenance may not
 24 be considered as married;
 25 (iv) the deduction for employment-related expenses must

1 be divided equally between the spouses when filing
 2 separately on the same form;
 3 (v) payment made to a child of the taxpayer who is
 4 under 19 years of age at the close of the taxable year and
 5 payments made to an individual with respect to whom a
 6 deduction is allowable under 15-30-112(5) are not deductible
 7 as employment-related expenses;
 8 (4) in the case of an individual, political
 9 contributions determined in accordance with the provisions
 10 of section 218(a) and (b) of the Internal Revenue Code that
 11 were in effect for the taxable year ended December 31, 1978;
 12 (5) that portion of expenses for organic fertilizer
 13 allowed as a deduction under 15-32-303 which was not
 14 otherwise deducted in computing taxable income; and
 15 (6) contributions to the child abuse and neglect
 16 prevention program provided for in 41-3-701, subject to the
 17 conditions set forth in 15-30-156."

18 **SECTION 3. SECTION 33-15-201, MCA, IS AMENDED TO READ:**
 19 **"33-15-201. Restrictions on contracting for personal**
 20 **insurance -- insurable interests -- violation. (1) Any**
 21 **individual of competent legal capacity may procure or effect**
 22 **an insurance contract upon his own life or body for the**
 23 **benefit of any person. But no person shall procure or cause**
 24 **to be procured any insurance contract upon the life or body**
 25 **of another individual unless the benefits under such**

1 contract are payable to the individual insured or his
2 personal representatives or to a person having, at the time
3 when such contract was made, an insurable interest in the
4 individual insured.

5 (2) If the beneficiary, assignee, or other payee under
6 any contract made in violation of this section receives from
7 the insurer any benefits thereunder accruing upon the death,
8 disablement, or injury of the individual insured, the
9 individual insured or his personal representative may
10 maintain an action to recover such benefits from the person
11 so receiving them.

12 (3) "Insurable interest" with reference to personal
13 insurance includes only interests as follows:

14 (a) in the case of individuals related closely by blood
15 or by law, a substantial interest engendered by love and
16 affection;

17 (b) in the case of other persons, a lawful and
18 substantial economic interest in having the life, health, or
19 bodily safety of the individual insured continue, as
20 distinguished from an interest which would arise only by or
21 would be enhanced in value by the death, disablement, or
22 injury of the individual insured.

23 (4) An individual heretofore or hereafter party to a
24 contract or option for the purchase or sale of an interest
25 in a business partnership or firm or of shares of stock of a

1 closed corporation or of an interest in such shares has an
2 insurable interest in the life of each individual party to
3 such contract and for the purposes of such contract only, in
4 addition to any insurable interest which may otherwise exist
5 as to the life of such individual.

6 (5) A charitable institution has an insurable interest
7 in an individual if:

8 (a) the individual authorizes the charitable
9 institution to purchase insurance naming the charitable
10 institution as an irrevocable beneficiary; and

11 (b) the insurance is purchased with contributions made
12 by the individual."

13 NEW SECTION. Section 4. Effective date -- retroactive
14 applicability. [This act] is effective on passage and
15 approval and applies retroactively, within the meaning of
16 1-2-109, to taxable years beginning after December 31, 1990.

-End-

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 52nd LEGISLATURE - REGULAR SESSION

COMMITTEE ON TAXATION

Call to Order: By DAN HARRINGTON, CHAIR, on March 7, 1991, at 9:02 a.m.

ROLL CALL

Members Present:

Dan Harrington, Chairman (D)
Bob Ream, Vice-Chairman (D)
Ben Cohen, Vice-Chair (D)
Ed Dolezal (D)
Jim Elliott (D)
Orval Ellison (R)
Russell Fagg (R)
Mike Foster (R)
Bob Gilbert (R)
Marian Hanson (R)
David Hoffman (R)
Jim Madison (D)
Ed McCaffree (D)
Bea McCarthy (D)
Tom Nelson (R)
Mark O'Keefe (D)
Bob Raney (D)
Ted Schye (D)
Barry "Spook" Stang (D)
Fred Thomas (R)
Dave Wanzenried (D)

Staff Present: Lee Heiman, Legislative Council
Lois O'Connor, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

HEARING ON HB 790

Presentation and Opening Statement by Sponsor:

REP. THOMAS, House District 62, Stevensville, gave the opening statement on behalf of REP. MESSMORE, Sponsor, HB 790, House District 38, Great Falls. He stated that HB 790 was brought about at the request of the Governor. This is another piece of the Governor's health care plan that has been proposed this session.

Proponents' Testimony:

Hank Hudson, Coordinator on Aging, Governor's Office, stated HB 790 is consistent with the goal of the Governor's Office to encourage families and family members to provide long term care services for their loved one. In the U. S., 70% of the long term care provided is provided by the family members. The intent of HB 790 is to encourage this type of care. It also encourages individuals to plan for long term health care which will, hopefully, reduce the dependance on the Medicaid program.

In the two years since the passage of the tax credit for elderly care, we have observed a growing interest in this credit, but we also observe very little utilization. The original estimate was that this tax credit would cost around \$469,000 per year. Last year \$17,000 in credits were claimed. For a number of reasons, this opportunity is not being utilized: (1) people haven't learned about it nor has it become common knowledge among people who prepare taxes or people preparing their own taxes; (2) there are certain restrictive natures in the program that would be corrected in HB 790.

One of the restrictive item to be changed would be the people whom you care for, for which you could claim the tax credit, had to be 70 years of age. HB 790 would lower that age to 65. It would also include family members who are disabled under the definition of social security. If you are caring for a disabled family member in your home, those expenses not covered by Medicare, Medicaid, or private insurance, would then be eligible for the credit. It would also correct an oversight in the original bill which said that an individual you are caring for couldn't have an income over \$15,000. If you cared for a couple (your Mom and Dad) their income couldn't be more than \$15,000. Our original intention was \$15,000 for an individual and \$30,000 for a couple.

The second approach of HB 790 is to expand those types of services and expenses that are eligible for the credit. It would expand the services to include personal care attendant services. These are services such as help with bathing, help with eating, supervision and help getting in and out of bed. These are the types of services most needed by families who are taking care of their loved ones.

This would also include costs for long term care insurance. If a family decided to buy long term care insurance, their expenses for the policy would be subject to the credit. If they paid for the expenses in a licensed long term care facility, these would also be included in the credit. This is an effort to encourage more families to become involved in providing these services.

Bob Frazier, Governor's Health Care Committee, introduced a copy of a report written by him on long term health care. **EXHIBIT 1**

Fred Patton, American Association of Retired Persons, stood in support of HB 790. He stated that one of the concerns they have is the quality of care. Being able to live in their homes and being cared for by their own relatives makes a difference. HB 790 makes the administration easier and covers the part of the bill that were left out the last time.

Rose Hughes, Montana Health Care Association and Jim Aarons, Montana Hospital Association, urged the committee's support.

Opponents' Testimony: None

Questions From Committee Members:

REP. REAM said the fiscal note was long and involved and asked if there was anyone present who could explain it. **Jeff Miller, DOR**, stated the fiscal note involves bringing together data from multiple sources and 16 different assumptions. They tried to identify the maximum amount that would be spent in all of the areas, and factored against that the various declining level of credit based on income levels. We then arrived at what the maximum amount of credit might be. Based on our experience with the previous program, which was substantially underutilized, less than 1%; they factored in a consideration stating that a person could double that. We then arrived at an estimated use of 2% of what they calculated as being maximum to arrive at the \$15,000.

Closing by Sponsor:

REP. THOMAS stated the one thing the fiscal note is impossible to calculate in that there should be a substantial cost savings to the state. HB 790 does advocate people planning and taking care of their future need which includes nursing home care. More than six out of ten nursing home beds are paid for by the state through Medicaid. If more people are planning their future, we are enticing and encouraging them with the tax credit; then hopefully there will be a cost savings to the state. He submitted an amendment which will be dealt with in executive session. **EXHIBIT 2**

HEARING ON HJR 24

Presentation and Opening Statement by Sponsor:

REP. REAM, House District 54, Missoula, provided written testimony on the revenue estimating process. **EXHIBIT 3**

The revenue estimating process has been a recent phenomenon in the Legislature starting in the 1983 session. The idea behind HJR 24 is that we have always gone through the appropriations process. The Legislature acts on appropriations bills and accumulates the appropriations side of the equation by the actions on these various bill. The revenue side of the equation is more dependent on existing law and the revenues that are

MYTHS & REALITIES

Why Most of What Everybody Knows about Long-Term Care Is Wrong

Joshua M. Wiener and Katherine M. Harris

The place of long-term care on the national policy agenda has risen dramatically in recent years. Over the past year, *Newsweek* devoted a cover story to Alzheimer's disease, the *New York Times* ran a four-part story on long-term care, and Walter Cronkite narrated a special program on financing issues. Several key members of Congress in both houses have introduced legislation to overhaul the financing of long-term care. And long-term care is receiving equal billing with hospital and physician care in major reviews of health policy by the U.S. Bipartisan Commission for Comprehensive Health Care (the Pepper Commission), the White House Domestic Policy Council, and the Social Security Advisory Council.

As policymakers have hurriedly educated themselves about chronic disability, nursing homes, and home care, a body of conventional wisdom about long-term care has developed. Unfortunately, much of it is simply wrong. Of the many unfounded notions about long-term care currently in circulation, eight myths are especially prevalent.

Joshua M. Wiener is a senior fellow in the Economic Studies program at the Brookings Institution, where he has conducted extensive research on long-term care. He is the coauthor, with Alice Rivlin, of *Caring for the Disabled Elderly: Who Will Pay?* (Brookings, 1988). Katherine M. Harris, who recently received a master's degree in economics from the University of Michigan, is a research assistant in the Economic Studies program at Brookings.

MYTH 1: THE LONG-TERM CARE ISSUE AFFECTS ONLY THE ELDERLY

It is true that long-term care disproportionately concerns people aged 65 and over. But great numbers of people under 65 are also affected, both as the chronically disabled and as caregivers.

First, not all disabled people are old. At least a quarter of all adults who have trouble performing such basic personal tasks as eating, bathing, and dressing are under age 65. Broader definitions of disability that include such tasks as doing housework, shopping, and managing money increase the figure to 46 percent. Although disability is much more prevalent among the over-65 population, there are many more people under the age of 65 than over. So even a low disability rate among those under 65 produces a significant number of nonelderly disabled.

Despite their numbers, we know little about the characteristics and service needs of disabled people under age 65. We do know that they tend to make less use of paid services, such as home care and nursing home care, than do the elderly. But we don't know why.

Second, long-term care issues affect not only disabled Americans themselves, but also their families. When aging parents require care, it is usually their children who are called upon to provide it. Almost two-thirds of unpaid caregivers to the disabled elderly are under 65. And coping with a disabled elderly relative is becoming an increasingly common experience, largely because

people are living longer. In a national survey of voters of all ages, 47 percent said that someone in their family had already needed long-term care.

Because long-term care is an important family issue and not just a narrow interest of the elderly, public opinion polls reveal little evidence of tension between young and old about devoting resources to long-term care. Public opinion surveys, including those by the Daniel Yankelovich Group, consistently find that younger age groups support public spending for long-term care as much as, if not more than, older groups do. The consensus holds firm even when it comes to paying additional taxes.

Because long-term care is an issue involving the disabled of all ages and their relatives, equity would demand that the under-65 group be included in any future public program. Except to hold down costs, there is no good reason to limit initiatives to the elderly. Still, more research into how to serve the younger disabled population and how to support caregivers meaningfully is crucial to an effective and affordable program.

MYTH 2: IN THE GOOD OLD DAYS FAMILIES TOOK CARE OF THEIR ELDERLY PARENTS AT HOME, BUT NOW FAMILIES JUST DUMP DISABLED RELATIVES INTO NURSING HOMES

The second myth laments the collapse of the extended family and the selfishness of the current generation. The reality is that disability rates increase rapidly with age. In the good old days, elderly relatives rarely lived long enough to develop chronic disabilities. The quadrupling of the number of elderly people in institutions between 1950 and 1980 was due not to families abandoning disabled relatives, but to falling death rates. More than two-thirds of the increase can be explained solely by the jumps in the absolute number of older Americans and the disproportionate growth in the population aged 75 and older, who have the greatest long-term care needs. One sign that families are not abandoning their disabled relatives is that nursing home use rates actually fell a little between 1977 and 1985.

In fact, most disabled elderly Americans continue to live in their communities, assisted by their relatives. In 1982, for instance, only about 21 percent of the disabled elderly were in nursing homes. Of those who were not in nursing homes, nearly 90 percent received unpaid support, mostly from wives, daughters, and daughters-in-law. American families devote enormous time and energy to the care of disabled relatives. The costs are emotional and physical as well as financial. One study estimated that 27 million unpaid, informal care visits were made each week in 1980 by family and friends.

Without unpaid family caregivers, public spending on long-term care would far exceed current levels. Predictably, policymakers are examining ways to increase unpaid care. They are unlikely to be successful, simply because families are already doing so much.

MYTH 3: IF PAID HOME CARE IS PROVIDED, FAMILIES WILL STOP PROVIDING UNPAID CARE

The fear that a government program of paid home care will reduce unpaid family care has paralyzed efforts to reform the long-term care delivery system. Policymakers do not want to pay for what is already provided at no cost to taxpayers.

Yet most studies suggest that when the disabled elderly receive paid home care, such as adult day care, skilled nursing services, personal care, and homemaker services, the unpaid care given by family members does not change significantly. According to William Weissert of the University of Michigan, of 53 findings in studies of the effect of paid home care on informal care, 41 were not statistically significant, 7 suggested a significant increase in unpaid support, only 4 suggested a significant decrease, and 1 was indeterminate.

A few of these studies are especially notable. An evaluation of a federally funded project, the Channeling Demonstration, found that providing a rich package of services caused only a small reduction in the percentage of disabled elderly receiving any informal care. It caused no significant change in visits per week from informal caregivers or in hours per day of care by the primary unpaid caregiver. A few types of help, principally homemaker services, had small but significant reductions, more by nonfamily than family caregivers. Another study, of California's Multipurpose Senior Services Pro-

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ject, found a small reduction in informal care: for people living with others, a 10 percent increase in paid care led to a 1.2 percent decrease in informal care. The effect was smaller for an elderly person living with a child or with a sibling nearby. Recent studies of the Minnesota Pre-Admission Screening-Alternative Care Grants Program and the Chicago Five Hospital Program found that informal caregivers did not reduce support following the introduction of paid home care services. Finally, an analysis of the National Long-Term Care Survey by Raymond Hanley and Joshua Wiener of Brookings found no significant substitution effects between paid and unpaid care.

To be sure, these findings measure mostly local, short-run experience rather than long-run responses to a national public or private insurance entitlement. Even so, they sharply contradict the expectation that informal care will collapse if paid home care is available. The implications are twofold. First, policymakers can probably expand paid home care without triggering an explosion of costs due to cutbacks of unpaid care. (Costs may still be high, but for other reasons.) Second, policymakers should not create a paid home care program with the expectation that it will dramatically reduce the burden on caregivers. Families and friends will continue to provide almost as much care as they would have without paid services. What paid home care can do is give caregivers a needed respite and allow them to arrange their hours and tasks more efficiently. Families will welcome the relief, but their burdens will remain great.

MYTH 4: VERY FEW PEOPLE EVER USE NURSING HOMES, BUT THOSE WHO DO SPEND A LONG TIME THERE

Admission to a nursing home is, in fact, quite common. The lifetime risk at age 65 of spending some time in a nursing home is between 35 percent and 49 percent. But the stay may not be long-term: the lifetime risk at age 65 of spending more than one year in a nursing home is only about 22 percent.

Although many people justifiably fear the expense of a very long stay in a nursing home, relatively short stays are quite common. Estimates are that between 46 percent and 64 percent of nursing home stays are less than a year, and that between 26 percent and 45 percent are less than three months. The paradox is that, while long-stay patients are relatively few in number, they account for a huge proportion of nursing home patient-days. For example, according to Wiener and his former Brookings colleague Denise Spence, nursing home patients who stay longer than three years account for only about 20 percent of admissions but 70 percent of total patient-days.

Nonetheless, a nursing home stay, however brief, can be financially burdensome. A short stay in a nursing home will generate out-of-pocket costs that would be considered catastrophic if they were hospital or physician costs. A 75-day stay in a nursing home, for example, will cost more than the average hospital bill of

A short stay in a nursing home will generate out-of-pocket costs that would be considered catastrophic if they were hospital or physician costs.

A 75-day stay in a nursing home, for example, will cost more than the average hospital bill of \$6,700 for treatment of pneumonia.

\$6,700 for treatment of pneumonia. For the 50 percent of short-stay patients who recover and return home, a relatively short nursing home stay can mean a lower income and fewer assets to pay for other emergencies.

An accurate picture of the risk of needing long-term care is crucial in assessing trade-offs in the design of insurance policies for long-term care. Proposals, like those advanced by the Pepper Commission, that cover only short nursing home stays will completely cover many admissions but only a small percentage of total nursing home patient-days. Thus, public costs will be relatively small. Conversely, social insurance proposals, such as Senator George Mitchell's, that cover only very long stays will cover few patients but a large percentage of nursing home patient-days. Thus, public costs will be relatively large.

MYTH 5: HOME CARE CAN REDUCE LONG-TERM CARE EXPENDITURE BY SUBSTITUTING FOR EXPENSIVE NURSING HOME CARE

Supporters of publicly funded home care often argue that these services will substitute for expensive nursing home care and thus actually reduce public long-term



care expenditures. But Peter Kemper, of the Agency for Health Care Policy and Research, and others have shown that in demonstration projects that offered expanded home care, total costs rose rather than declined, and nursing home use fell only slightly. For example, in the Channeling Demonstration, providing a wide range of home care services pushed up health and long-term care costs about 18 percent.

Older people's aversion to nursing homes explains this increase. Given a choice between nursing home care and nothing, many elderly people will choose nothing. But when the choice is expanded to include home care, many will choose home care. Thus, the costs associated with large increases in home care more than offset small reductions in nursing home use.

Expected cost saving is, therefore, not a valid reason to expand home care. Various strategies, however, may be able to limit a home care program's incremental cost. Among them are targeting services to the most severely disabled, making reduction of hospital admissions a priority, exploiting technological "fixes" (such as automatic alarm systems), and aggressively monitoring use levels.

Still, there are reasons other than cost saving to support a paid home care program. A home care program would improve the quality of life by addressing an unmet need of the elderly and would provide the type of care that they overwhelmingly want.

MYTH 6: MOST NURSING HOME PATIENTS PAY PRIVATELY AT ADMISSION, BUT ARE WELFARE RECIPIENTS AT DISCHARGE

Probably the most widespread long-term care myth is that most people enter a nursing home as independent, private-pay patients, then, impoverished by the costs, turn to Medicaid, the federal-state health program for the poor, to pay for their care. Depleting one's income and assets down to Medicaid financial eligibility levels is known as "spending down." Given that the cost of a year in a nursing home often exceeds \$30,000, it is hard to see how it could be otherwise. Nonetheless, recent studies consistently show that only a modest number of nursing home patients spend down to Medicaid. Conversely, many more patients are eligible for Medicaid at admission than previously thought.

While one simulation study of elderly Massachusetts residents suggests that 46 percent of those aged 75 and over living alone in the community would become eligible for Medicaid after only 13 weeks in a nursing home, no study of actual spend-down behavior has found an equivalent drain on resources. Many nursing home patients have relatively few resources to begin with. For example, a study using Michigan Medicare claims data found that only a quarter of 1984 nursing home patients originally entered as private-pay patients. A Connecticut study, which linked multiple nurs

ing home stays, found that 21 percent of private-pay nursing home patients spent down at some time during their stay and that 38 percent of Medicaid nursing home patients were private-pay at admission. Because they tend to have long lengths of stay, spend-down patients accounted for a somewhat higher percentage of Medicaid patient-days.

In a third study, using the National Nursing Home Survey, Spence and Wiener found that only about 10 percent of private-pay nursing home patients spend down to Medicaid during a single stay. Even with adjustments for multiple stays, Spence and Wiener estimate that the proportion of private-pay patients who spend down to Medicaid eligibility is in the range of 15-25 percent. By contrast, fully 35 percent of patients were eligible for Medicaid at admission. A substantial portion of the latter group probably would have had too much income to qualify for Medicaid had they continued to live in the community. However, the high cost of nursing home care made them immediately eligible for Medicaid upon entry to the nursing home.

There are several other explanations for the modest spend-down rate. First, as noted earlier, many nursing home stays are relatively short. Thus, at an average cost of \$80 a day, the total cost of a three-month stay is \$7,200, an amount that is sizable but manageable for many elderly people. By contrast, two-thirds of the patients who stay more than three years depend in part on Medicaid to help pay for their care. Even among this group, however, just 20 percent spend down; most are eligible for Medicaid at admission. Second, private-pay patients may avoid relying on welfare by selling their assets, including their houses, and by accepting money from relatives for their care. Although they may deplete their assets, they may never end up on Medicaid.

These research findings highlight the trade-offs between goals against which proposals for long-term care must be evaluated. One goal is to prevent the elderly from having to spend all their life savings on nursing home or extensive home care. Even if patients do not end up on Medicaid, nursing home care still imposes a substantial financial burden that can financially cripple them and their relatives. This goal is most important to the middle and upper-middle classes, who have significant assets to protect.

A second goal is to prevent older people from having to depend on welfare in the form of Medicaid. Public charity always carries some stigma, and efforts to reduce taxpayer costs are likely to perpetuate a two-class system with inferior status for Medicaid patients. Since most Medicaid patients in nursing homes are eligible at admission, focusing on the spend-down group ignores the large majority of Medicaid patients, who are presumably in the middle class or below, with few assets. Keeping this group off welfare deserves greater public policy attention than it has received to date.

MYTH 7: PRIVATE LONG-TERM CARE INSURANCE CAN SOLVE THE PROBLEM OF LONG-TERM CARE FINANCING

Over the past few years the market for private long-term care insurance has grown rapidly, leading some policymakers to promote private insurance as the best way to finance protection against the catastrophic costs of long-term care at a time of government austerity. The reality is that only about 3 percent of the elderly currently have long-term care insurance. Even under optimistic assumptions about the future growth of the market, private insurance cannot do the whole job.

Studies done at Brookings, the Employee Benefit Research Institute, Families USA, and the Urban Institute all conclude that only a minority of the elderly can afford private long-term care insurance. Other studies have found that a higher percentage of the elderly can afford private insurance, but they have done so only by assuming that the policies were for limited coverage, by assuming that the elderly would use their assets as well as income to pay the premiums, or by excluding a large

*By the year 2000
virtually all the parents
of the baby boom generation will
be elderly; thus baby
boomers will have to face
long-term care
as a real-life, intensely personal
problem, no longer
just something to read about
in Newsweek.*

percentage of the elderly from the pool of people who might be interested in purchasing insurance.

Although there is room for substantial growth in private insurance, projections using the Brookings-ICF Long-Term Care Financing Model suggest that only limited segments of the population will be covered by the private sector. By 2018 insurance sold to those 65 and older may be affordable to 25-54 percent of the elderly, may finance 7-17 percent of total nursing home expenditures, and may reduce Medicaid expenditures and the number of Medicaid nursing home patients by 1-16 percent.

Why will private insurance have a modest role in financing nursing home and home care? First, as already noted, private insurance is so expensive that most older people cannot afford it. The Health Insurance Association of America reports that the average annual premium for the 15 best-selling policies with inflation protection is \$1,395 if purchased at age 65, rising to \$4,199 if purchased at age 79.

Second, although coverage has been improved substantially over the past few years, financial protection is still limited. For example, benefits are rarely fully indexed for inflation, home care is highly restricted, and policies usually do not cover very long nursing home stays or home care episodes.

Third, insurers are worried because the long interval between initial purchase and ultimate use of nursing home and home care involves great uncertainty and financial risk. A policy bought by a woman at age 65 may not be used until she is 85, a full 20 years later. During those 20 years, unforeseen changes in disability or mortality rates, nursing home and home care utilization patterns, inflation in service costs, or the rate of return on financial reserves can dramatically transform a profitable policy into an unprofitable one. Such uncertainty will likely lead insurers to limit the number of policies they sell.

While private long-term care insurance can and should play a much larger role than it does now, it is not a panacea. Private insurance will not prevent public expenditure for long-term care from increasing substantially over the next 30 years, nor will it provide financial protection for the great majority of elderly. Expansions of public programs or very deep subsidies for the purchase of private insurance are needed to protect the elderly against the catastrophic costs of long-term care.

MYTH 8: THE UNITED STATES IS THE ONLY DEVELOPED COUNTRY BESIDES SOUTH AFRICA THAT FAILS TO PROVIDE LONG-TERM CARE ON A SOCIAL INSURANCE BASIS

In an effort to shame Americans into action, advocates of reform sometimes charge that the long-term care financing system in the United States lags far behind those in the rest of the world. While it is true that South

Africa and the United States are the only developed countries without national health insurance or a national health service, these programs principally cover acute care hospital and physician services rather than long-term care. There is, in fact, a great deal of diversity in the way countries provide long-term care.

In Germany and Switzerland, long-term care is delivered through a means-tested welfare program. The level of impoverishment required for eligibility, however, is usually less severe than it is in the United States. In France and Belgium, the social insurance program covers only the medical component of long-term care. The Netherlands and some provinces of Canada provide relatively comprehensive long-term care programs on a nonwelfare basis, although they require a fairly substantial level of cost sharing. Both countries, however, provide their universal entitlement in the context of a fixed appropriation rather than an open-ended financing program like Medicaid and Medicare. Japan has virtually no nursing homes or paid home care. Instead, nursing home patients tend to back up in acute care hospitals. (One financing characteristic that all these countries do share is the small role played by private long-term care insurance.)

While the U.S. system is by no means exemplary, it is not so different from those of other countries as to be beyond the pale. As we look for ways to reform the financing of long-term care in the United States, the experience of Canada offers some support to those who argue that long-term care can be provided on a universal, social insurance basis without expenditures skyrocketing.

CONCLUSION

As policymakers grope for solutions, it is essential that they have a realistic picture of the problems of long-term care. To a large extent, the conventional view of long-term care is at odds with the research literature. While some of the prevailing myths lend support to desirable initiatives, policy prescriptions based on inaccurate assumptions are likely to be ineffective and inefficient. Myths deflect attention from the real problems of providing and paying for care of the disabled.

Accurately defining the problems and realistically evaluating options is all the more critical because the issue of long-term care is likely to become increasingly prominent over the next 10 years. For one thing, the population aged 75 and older — the oldest old — will grow 25 percent by the year 2000. Even more important, virtually all the parents of the baby boom generation will be elderly; thus baby boomers will have to face long-term care as a real-life, intensely personal problem, no longer just something to read about in *Newsweek*. The combination of the elderly and their adult children will make long-term care a political issue that neither the president nor Congress can ignore.

Amendment to House Bill # 790
(RE: Revising Tax Credit for Elderly, et al.)
Introduced Copy

1. Page 2, line 16
Following: "~~services~~"
Insert: "home health agency services,"

Rationale: Services provided by home health agencies were inadvertently removed by the proposed legislation from the list of services and care that constitute elderly care expenses for which income tax credits would be available. The proposed amendment would reinsert home health agency services into the list.

MINUTES

**MONTANA HOUSE OF REPRESENTATIVES
52nd LEGISLATURE - REGULAR SESSION**

COMMITTEE ON TAXATION

Call to Order: By DAN HARRINGTON, CHAIR, on March 22, 1991, at 9:00 a.m.

ROLL CALL

Members Present:

Dan Harrington, Chairman (D)
Bob Ream, Vice-Chairman (D)
Ben Cohen, Vice-Chair (D)
Ed Dolezal (D)
Jim Elliott (D)
Orval Ellison (R)
Russell Fagg (R)
Mike Foster (R)
Bob Gilbert (R)
Marian Hanson (R)
David Hoffman (R)
Jim Madison (D)
Ed McCaffree (D)
Bea McCarthy (D)
Tom Nelson (R)
Mark O'Keefe (D)
Bob Raney (D)
Ted Schye (D)
Barry "Spook" Stang (D)
Fred Thomas (R)
Dave Wanzenried (D)

Staff Present: Lee Heiman, Legislative Council
Lois O'Connor, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

HEARING ON SJR 15

Presentation and Opening Statement by Sponsor:

SEN. VAUGHN, Senate District 1, Libby, stated the federal government takes the social security funds and transfers the amount from where they are now and puts them into a fund to be reserved for what the purpose was set up for. It is not only important for the people who are drawing social security now, but it is very important for those who are looking at social security in the future as to whether there will money in the fund for them to use.

EXECUTIVE ACTION ON HB 832

Motion: REP. ELLIOTT MOVED HB 832 DO PASS.

Motion: REP. ELLISON moved to amend HB 832. EXHIBIT 11

Discussion:

REP. REAM said that the Income/Severance Tax Subcommittee recommended to adopt REP. BROWN'S and REP. ELLISON'S amendments.

Vote: Motion to amend HB 832 carried unanimously.

Motion/Vote: CHAIR HARRINGTON MADE A SUBSTITUTE MOTION THAT HB 832 DO PASS AS AMENDED. Motion carried unanimously.

EXECUTIVE ACTION ON HB 809

Motion/Vote: REP. GILBERT MOVED HB 809 BE TABLED. Motion carried 16 to 5 with REPS. O'KEEFE, WANZENRIED, COHEN, REAM, and HARRINGTON voting no.

EXECUTIVE ACTION ON HB 929

Motion/Vote: REP. STANG MOVED HB 929 BE TABLED. Motion carried unanimously.

EXECUTIVE ACTION ON HB 973

Motion: REP. STANG MOVED HB 973 DO PASS.

Motion: REP. STANG moved to amend HB 973. EXHIBIT 12

Discussion:

REP. REAM said the Income/Severance Tax Subcommittee voted 8 to 1 Do Pass.

Vote: Motion to amend HB 973 carried unanimously.

Motion/Vote: CHAIR HARRINGTON MADE A SUBSTITUTE MOTION THAT HB 973 DO PASS AS AMENDED. Motion carried 17 to 4 with REPS. GILBERT, M. HANSON, ELLIOTT, and McCAFFREE voting no.

EXECUTIVE ACTION ON HB 790

Motion: REP. REAM MOVED HB 790 DO PASS.

Motion: REP. REAM moved to amend HB 790. EXHIBIT 13

Discussion:

REP. REAM stated that on Page 2, Line 16, reinsert "home health

agency services". On Page 2, Lines 11 and 12 strike "adjusted" and following "income" insert: "including all nontaxable income". He stated that they were trying to include all revenue income including social security.

Vote: Motion to amend HB 790 carried unanimously.

Motion/Vote: REP. ELLIOTT MADE A SUBSTITUTE MOTION THAT HB 790 DO PASS AS AMENDED. Motion carried unanimously.

EXECUTIVE ACTION ON HB 796

Motion/Vote: REP. ELLIOTT MOVED HB 796 BE TABLED. Motion carried 15 to 6 with REPS. O'KEEFE, SCHYE, MADISON, COHEN, FAGG, and RANEY voting no.

EXECUTIVE ACTION ON HB 614

Motion: REP. THOMAS MOVED HB 614 DO PASS.

Discussion:

REP. THOMAS said this is a cigarette tax that would help purchase insurance for uninsured children.

Motion/Vote: REP. ELLISON MADE A SUBSTITUTE MOTION THAT HB 614 BE TABLED. Motion carried 15 to 4 on a roll call vote. EXHIBIT 14

EXECUTIVE ACTION ON SB 280

Motion: REP. FAGG MOVED SB 280 BE CONCURRED IN.

Motion: REP. ELLISON moved to amend SB 280. EXHIBIT 15

Discussion:

Lee Heiman, Legislative Council, explained that SB 41 changed the collection of passenger tramway collection to the DOC. The Governor signed that as Chapter 34, so that tramway passenger assessments have to be removed for the bill.

Vote: Motion to amend SB 280 carried unanimously.

Motion/Vote: CHAIR HARRINGTON MADE A SUBSTITUTE MOTION SB 280 BE CONCURRED IN AS AMENDED. Motion carried unanimously.

EXECUTIVE ACTION ON HB 970

Motion: REP. COHEN MOVED HB 970 MOVED HB 970 DO PASS.

Motion: REP. COHEN moved to amend HB 970. EXHIBIT 16

HOUSE OF REPRESENTATIVES

TAXATION COMMITTEE

ROLL CALL

DATE 3/22/91

NAME	PRESENT	ABSENT	EXCUSED
REP. DAN HARRINGTON	✓		
REP. BEN COHEN, VICE-CHAIRMAN	✓		
REP. BOB REAM, VICE-CHAIRMAN	✓		
REP. ED DOLEZAL	✓		
REP. JIM ELLIOTT	✓		
REP. ORVAL ELLISON	✓		
REP. RUSSELL FAGG	✓		
REP. MIKE FOSTER	✓		
REP. BOB GILBERT	✓		
REP. MARIAN HANSON	✓		
REP. DAVID HOFFMAN	✓		
REP. JIM MADISON	✓		
REP. ED MCCAFFREE	✓		
REP. BEA MCCARTHY	✓		
REP. TOM NELSON	✓		
REP. MARK O'KEEFE	✓		
REP. BOB RANEY	✓		
REP. TED SCHYE	✓		
REP. BARRY "SPOOK" STANG	✓		
REP. FRED THOMAS	✓		
REP. DAVE WANZENRIED	✓		

all here

EXHIBIT 13
DATE 3-22-91
HB 790

Amendments to House Bill No. 790
First Reading Copy

Requested by Sponsor
For the Committee on Taxation

Prepared by Lee Heiman
March 7, 1991

1. Page 2, line 11.
Strike: "adjusted"
Following: "income"
Insert: ", including all nontaxable income,"
2. Page 2, line 12.
Strike: "adjusted"
Following: "income"
Insert: ", including all nontaxable income,"
3. Page 2, line 17.
Following: "~~administration~~"
Insert: "home health agency services,"

MINUTES

MONTANA SENATE 52nd LEGISLATURE - REGULAR SESSION

COMMITTEE ON TAXATION

Call to Order: By Senator Mike Halligan, Chairman, on April 11, 1991, at 8:00 a.m.

ROLL CALL

Members Present:

Mike Halligan, Chairman (D)
Dorothy Eck, Vice Chairman (D)
Robert Brown (R)
Steve Doherty (D)
Delwyn Gage (R)
John Harp (R)
Francis Koehnke (D)
Gene Thayer (R)
Thomas Towe (D)
Van Valkenburg (D)
Bill Yellowtail (D)

Members Excused: None

Staff Present: Jeff Martin (Legislative Council).

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Announcements/Discussion: None

EXECUTIVE ACTION ON HOUSE BILL 970

Amendments, Discussion, and Votes:

Jeff Martin presented proposed amendments from the Department of Revenue (Exhibit #1). The amendments change gross operating sales to gross operating income and establish an applicability date of 1991 rather than 1990.

Senator Harp presented proposed amendments (Exhibit #2) which would require the governing body to notify all taxing jurisdictions by certified mail when a 50% tax exemption is approved.

At this point, the Secretary had to leave the meeting. The rest of the meeting was tape recorded for later transcription in these minutes. Due to tape failure, the minutes are very sketchy and incomplete from the beginning of the hearing on HB 904 through the testimony from James Loftus in support of HB 809. Index notes to the tape were taken and the following is an attempt to reconstruct this portion of the hearing.

HEARING ON HOUSE BILL 904

Presentation and Opening Statement by Sponsor:

Rep. Kasten, District 28, presented the bill which is an act excluding social security income paid directly to a nursing home from the definitions of income used to calculate the low-income property tax reduction and the residential property tax credit for the elderly. It provides an immediate effective date and a retroactive applicability date.

Proponents' Testimony:

There were no proponents and no opponents. The committee took executive action on the bill immediately.

EXECUTIVE ACTION ON HOUSE BILL 904

Recommendation and Vote:

Senator Thayer moved HB 904 Be Concurred In.

The motion CARRIED.

HEARING ON HOUSE BILL 790

Presentation and Opening Statement by Sponsor:

Rep. Messmore, District 38, said the bill revises the Montana individual income tax credit for elderly family members, lowers the qualifying age limit to 65 years of age, deletes the physical requirement for affliction with Alzheimer's disease and substitutes that the individual must be determined disabled for social security purposes, establishes a higher income qualification for a married individual, and provides for payments

for care in a long-term health care facility are a qualifying expense. The bill contains an immediate effective date and a retroactive applicability date. The bill is product of the Office of Aging.

Rep. Messmore presented two separate sheets of proposed amendments prepared by Greg Petesch requested by Rep. Lee and Rep. Messmore (Exhibits #12 and #12a).

Rep. Messmore said the bill will be needed by 2000 parents of the "baby-boom" generation who will be elderly and in the care of their adult children.

Proponents' Testimony:

Hank Hudson, Governor's Commission on Aging, said the bill encourages the delivery of long-term health care services. The majority of the care is provided by families in the home. The credit would allow care-taking families a credit for expenses of home health care and care in a nursing facility. It encourages families to care for their elders at home with the appropriate support services. He presented the committee with a paper on long-term health care issues (Exhibit #13).

Sally Cerny, Easter Seals, said the tax credit is one more way to assist with home care assistance which helps maintain a sense of dignity for the elderly. Charities are seeking ways to provide immediate help as well as endowment provisions to guarantee perpetual help. Current law is vague about insurance contributions for charitable institutions. In many instances, insurance is the only practical way for donors to contribute. She said the amendment eliminates the vagueness in the law and urged its adoption.

Opponents' Testimony:

There were no opponents.

Questions From Committee Members:

The question period was not adequately noted to be able to reconstruct it for this section of the minutes (see note re tape failure following HB 312).

Closing by Sponsor:

Rep. Messmore closed by saying the bill represents an expansion of existing law as our country ages. Benefits from the legislation may apply to all the elderly.

EXECUTIVE ACTION ON HB 790

Amendments, Discussion, and Votes:

Senator Eck moved to amend the bill as per the attached standing committee report.

The motion CARRIED with Senator Halligan voting no.

Recommendation and Vote:

Senator Eck moved HB 790 Be Concurred In As Amended.

The motion CARRIED.

HEARING ON HOUSE BILL 809

Presentation and Opening Statement by Sponsor:

Rep. Mary Lou Peterson, said the bill increases the tax on fire insurance premiums for maintenance of state fire prevention and investigation activities and creates a fire prevention and investigation account in the state special revenue fund to fund fire prevention and investigation activities of the Department of Justice. The bill was amended in the House from a tax of 3/4 of 1% to 1.5% and finally amended to 1% as it has come to the Senate.

Proponents' Testimony:

Marc Racicot, Montana Attorney General, spoke in support of the bill. He said the bill will benefit rural as well as urban areas of the state. It is very difficult to maintain high quality and comprehensive inspections and investigations with the very limited funding the Fire Marshall's Office now receives. He urged the committee to support the bill.

Anita Varone, Program Manager, Fire Marshall Bureau, presented testimony and supporting data (Exhibits #15 and #16).

James Loftus, Montana Fire District Association, expressed his support for the bill.

Rich Lwandowski, State Fire Marshall, spoke in favor of the bill and presented written testimony (Exhibit #16).

Amendments to House Bill No. 790
Third Reading Copy

Requested by Representative Messmore
For the Committee on Taxation

Prepared by Greg Petesch
April 10, 1991

1. Title, line 18.

Following: line 17

Insert: "CLARIFYING THAT A CHARITABLE INSTITUTION HAS AN
INSURABLE INTEREST IN CERTAIN INDIVIDUALS;"

Strike: "SECTION"

Insert: "SECTIONS 15-30-121,"

Following: "15-30-128,"

Insert: "AND 33-15-201,"

2. Page 4, line 21.

Following: line 20

Insert: "Section 2. Section 15-30-121, MCA, is amended to read:
"15-30-121. Deductions allowed in computing net income. In
computing net income, there are allowed as deductions:

(1) the items referred to in sections 161, including the
contributions referred to in 33-15-201(5)(b), and 211 of the
Internal Revenue Code of 1954, or as sections 161 and 211 shall
be labeled or amended, subject to the following exceptions which
are not deductible:

(a) items provided for in 15-30-123;

(b) state income tax paid;

(2) federal income tax paid within the taxable year;

(3) expenses of household and dependent care services as
outlined in subsections (3)(a) through (3)(c) and subject to the
limitations and rules as set out in subsections (3)(d) through
(3)(f) as follows:

(a) expenses for household and dependent care services
necessary for gainful employment incurred for:

(i) a dependent under 15 years of age for whom an exemption
can be claimed;

(ii) a dependent as allowable under 15-30-112(5), except
that the limitations for age and gross income do not apply, who
is unable to care for himself because of physical or mental
illness; and

(iii) a spouse who is unable to care for himself because of
physical or mental illness;

(b) employment-related expenses incurred for the following
services, but only if such expenses are incurred to enable the
taxpayer to be gainfully employed:

(i) household services which are attributable to the care
of the qualifying individual; and

(ii) care of an individual who qualifies under subsection
(3)(a);

(c) expenses incurred in maintaining a household if over
half of the cost of maintaining the household is furnished by an

individual or, if the individual is married during the applicable period, is furnished by the individual and his spouse;

(d) the amounts deductible in subsection (3)(a) through (3)(c) are subject to the following limitations:

(i) a deduction is allowed under subsection (3)(a) for employment-related expenses incurred during the year only to the extent such expenses do not exceed \$4,800;

(ii) expenses for services in the household are deductible under subsection (3)(a) for employment-related expenses only if they are incurred for services in the taxpayer's household, except that employment-related expenses incurred for services outside the taxpayer's household are deductible, but only if incurred for the care of a qualifying individual described in subsection (3)(a)(i) and only to the extent such expenses incurred during the year do not exceed:

(A) \$2,400 in the case of one qualifying individual;

(B) \$3,600 in the case of two qualifying individuals; and

(C) \$4,800 in the case of three or more qualifying individuals;

(e) if the combined adjusted gross income of the taxpayers exceeds \$18,000 for the taxable year during which the expenses are incurred, the amount of the employment-related expenses incurred must be reduced by one-half of the excess of the combined adjusted gross income over \$18,000;

(f) for purposes of this subsection (3):

(i) married couples shall file a joint return or file separately on the same form;

(ii) if the taxpayer is married during any period of the taxable year, employment-related expenses incurred are deductible only if:

(A) both spouses are gainfully employed, in which case the expenses are deductible only to the extent that they are a direct result of the employment; or

(B) the spouse is a qualifying individual described in subsection (3)(a)(iii);

(iii) an individual legally separated from his spouse under a decree of divorce or of separate maintenance may not be considered as married;

(iv) the deduction for employment-related expenses must be divided equally between the spouses when filing separately on the same form;

(v) payment made to a child of the taxpayer who is under 19 years of age at the close of the taxable year and payments made to an individual with respect to whom a deduction is allowable under 15-30-112(5) are not deductible as employment-related expenses;

(4) in the case of an individual, political contributions determined in accordance with the provisions of section 218(a) and (b) of the Internal Revenue Code that were in effect for the taxable year ended December 31, 1978;

(5) that portion of expenses for organic fertilizer allowed as a deduction under 15-32-303 which was not otherwise deducted in computing taxable income; and

(6) contributions to the child abuse and neglect prevention program provided for in 41-3-701, subject to the conditions set

forth in 15-30-156."

Section 3. Section 33-15-201, MCA, is amended to read:

"33-15-201. Restrictions on contracting for personal insurance -- insurable interests -- violation. (1) Any individual of competent legal capacity may procure or effect an insurance contract upon his own life or body for the benefit of any person. But no person shall procure or cause to be procured any insurance contract upon the life or body of another individual unless the benefits under such contract are payable to the individual insured or his personal representatives or to a person having, at the time when such contract was made, an insurable interest in the individual insured.

(2) If the beneficiary, assignee, or other payee under any contract made in violation of this section receives from the insurer any benefits thereunder accruing upon the death, disablement, or injury of the individual insured, the individual insured or his personal representative may maintain an action to recover such benefits from the person so receiving them.

(3) "Insurable interest" with reference to personal insurance includes only interests as follows:

(a) in the case of individuals related closely by blood or by law, a substantial interest engendered by love and affection;

(b) in the case of other persons, a lawful and substantial economic interest in having the life, health, or bodily safety of the individual insured continue, as distinguished from an interest which would arise only by or would be enhanced in value by the death, disablement, or injury of the individual insured.

(4) An individual heretofore or hereafter party to a contract or option for the purchase or sale of an interest in a business partnership or firm or of shares of stock of a closed corporation or of an interest in such shares has an insurable interest in the life of each individual party to such contract and for the purposes of such contract only, in addition to any insurable interest which may otherwise exist as to the life of such individual.

(5) A charitable institution has an insurable interest in an individual if:

(a) the individual authorizes the charitable institution to purchase insurance naming the charitable institution as an irrevocable beneficiary; and

(b) the insurance is purchased with contributions made by the individual."

Renumber: subsequent section

ROLL CALL

SENATE TAXATION COMMITTEE

DATE 4/11

52nd LEGISLATIVE SESSION

NAME	PRESENT	ABSENT	EXCUSED
SEN. HALLIGAN	X		
SEN. ECK	X		
SEN. BROWN	X		
SEN. DOHERTY	X		
SEN. GAGE	X		
SEN. HARP	X		
SEN. KOEHNKE	X		
SEN. THAYER	X		
SEN. TOWE	X		
SEN. VAN VALKENBURG	X		
SEN. YELLOWTAIL	X		

Each day attach to minutes.

DATE 4/11/91

COMMITTEE ON

Senate Taxation

Page one

HB 904, 95, 312, 809, 781, 790

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One	
			Support	Oppose
Steve Powell	Rawlley County Commissioner	HB 312	✓	
Julie Robinson	SRS	HB 93	✓	
Ernie Jean	Supt. Florence-Corlton			✓
Gordon Morris	MACO	HB 312	✓	
Kay Buhner	UHPA/4200	HB 181	✓	
Tom Schneider	MPFA	HB 312	✓	
Norm Tregun	SAur	HB 312		✓
Bob Anderson	MSBA	HB 312		✓
Paul Johnson	MT Assoc of Homes for the Aging	HB 93	✓	
Joe Roberts	ACHA	HB 93	✓	
Erik Thuesen	Self	HB 312	✓	
Jan Cool	Exon	HB 781	✓	
SALLY CERNY	Easter Seals	HB 790	✓	
Hank Hudson	Gov. Office on Aging	HB 790	✓	
Jon Allen	Mon. Wood Products Assoc.	HB 871	✓	
Roger McGLENN	INDEPENDENT INS. AGENTS ASSOC OF MT	HB 312		✓
Roger McGLENN	INDEPENDENT INSURANCE AGENTS ASSOC. OF MT.	HB 809		✓
Don Ashabrawa	STATE FARM INS	HB 312		✓
JAMES D. LOFTOS	MT FIRE DIST ASSOC.	HB 809	✓	
Don Rombold	Former Ins. Group	HB 312		✓
DEWE PHILLIPS	NAT. ASSOC. IND. INS ALLIANCE AMER. INS	HB 312		Amend.
Kay Foster	Billings Chamber	HB 781	✓	
Dick SIMPKINS	State Rep. HD 39	HB 312	✓	
REX MANUEL	GENEX	HB 781	✓	
Marjuline N. Terrell	Am. Ins. Assoc.	HB 312		Amend.
Marjuline N. Terrell	Am. Ins. Assoc.	HB 809		✓

(Please leave prepared statement with Secretary)

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